

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JEROME MORRIS-BEY,)
Petitioner,)
v.) Cause No. 4:09 CV 895 RWS
IAN WALLACE, and)
CHRIS KOSTER, Attorney General)
for the State of Missouri.¹)
Respondents.)

MEMORANDUM AND ORDER

This matter is before me on a Report and Recommendation that I deny Petitioner Jerome Morris-Bey's writ of habeas corpus under 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Lewis M. Blanton for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On August 3, 2012, Judge Blanton filed his recommendation that Morris-Bey's habeas petition should be denied and no certificate of appealability be issued. Morris-Bey timely filed his objections to the Report and Recommendation [#28]. Under 28 U.S.C. § 636(b)(1)(C) I am required to conduct a *de novo* review of those portions of the Report and Recommendation to which Morris-Bey objects.

I have conducted a *de novo* review of all matters relevant to the petition. Based on that review, I will adopt and sustain Judge Blanton's Report and Recommendation, except for the

¹Petitioner is currently incarcerated at Southeast Correctional Center. Ian Wallace, Warden of Southeast Correctional Center, is the proper respondent. As such, the court will substitute Ian Wallace as the respondent in this matter. See Rule 2(a), Rules Governing Section 2254 in the United States District Courts. In addition, because petitioner is subject to future custody pursuant to his consecutive sentences, Attorney General Chris Koster is a proper respondent. See Rule 2(b), Rules Governing Section 2254 in the United States District Courts.

analysis of ineffectiveness of post-conviction counsel performance. Petitioner does not assert, nor could he establish, that the ineffectiveness of his post-conviction counsel's performance cured his procedural default under Martinez v. Ryan, 132 S.Ct. 1309 (2012) (holding that "when a State requires a prisoner to raise an ineffective-assistance-of trial-counsel claim in a collateral proceeding, a prisoner may establish cause for a default of an ineffective-assistance claim...where appointed counsel in the initial-review collateral proceeding...was ineffective."). All of the claims Petitioner asserts here are without merit. As a result, I will deny Morris-Bey's petition. Finally, as Morris-Bey has not made a substantial showing of the denial of a constitutional right, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation filed on August 3, 2012 is **SUSTAINED, ADOPTED AND INCORPORATED** herein.

IT IS FURTHER ORDERED that Petitioner Jerome Morris-Bey's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FINALLY ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 24th day of August, 2012.